

APR 23 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JORGE NAJERA-GUTIERREZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-74792

Agency No. A97-813-751

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 15, 2008 **

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’
 (“BIA”) denial of administrative closure of a previously denied application for
cancellation of removal, subject to a final order of removal as of July 27, 2007.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

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We review this decision for an abuse of discretion. *See Ray v. Gonzalez*, 439 F.3d 582 (9th Cir. 2006) (citing *Singh v. Ashcroft*, 367 F.3d 1182, 1185 (9th Cir. 2004)).

We conclude that the BIA did not abuse its discretion by denying petitioner's motion for administrative closure because a final removal order had issued on July 27, 2007, and petitioner no longer had a case pending before the BIA when he filed the motion on September 11, 2007. Therefore, the BIA was without jurisdiction to administratively close this case which was not on its docket. *See* 8 C.F.R. § 245a.13(f). Accordingly, respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

PETITION FOR REVIEW DENIED.